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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,545	12/30/2000	Christopher J. Spiegel	042390P10597	7429

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EXAMINER

CHEN, TE Y

ART UNIT	PAPER NUMBER
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2171

DATE MAILED: 04/08/2004

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No

09/751,545

Applicant(s)

SIEGEL, CHRISTOPHER J.

Examin r

Susan Y Chen

Art Unit

2171

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-60 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 31-38, 41-48 and 51-58 is/are rejected.
- 7) ☒ Claim(s) 39, 40, 49, 50, 59 and 60 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/17/2004 has been entered.

This is in response to amendment filed on 12/22/2003.

Claims 31-60 are pending for examination, claims 31, 33, 41, 43, 51 and 53 have been amended.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 31-38, 41-48 and 51-58 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,622,200 issued to Hasbun et al.

The applied reference has a common assignee and at least one common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

As to claims 51, Hasbun et al. discloses a data storage system as claimed by applicant [e.g., Title, Abstract, Fig(s). 1-2, 5-27], comprising:

- a) a processor [e.g., 110, Fig. 1];
- b) a memory coupled to the processor [e.g., 160, 170, 180, Fig. 1];
- c) a process executed the processor from the memory having a data object manager [e.g., the Flash Memory Manager (FMM), col. 6, lines 20 – 31] to:

- 1) receive an instruction for updating a file having a plurality of fragments stored in the memory, the instruction including changed data for updating a first fragment of the file [e.g., col. 5, lines 62 – 65; col. 6, lines 38-41; Fig. 14 and associated texts];

- 2) create a second fragment based on the first fragment and the changed data [e.g., the step 1420, Fig. 14; col. 15, line 64 – col. 16, line 10];

- 3) copy a first table associated with the first fragment to form a second table [e.g., the steps: 2710-2724, Fig. 27], the second table having a handler reference the second fragment [e.g., the steps 1418, Fig. 14; col. 16, lines 11-22];

- 4) delete the first fragment when the creating and copying operations are completed [e.g., the steps 1434 – 1470, Fig. 14; col.16, lines 30-43].

As to claim 52, except all the features cited in claim 51, Hasbun further discloses that the data object manager further marks via the first table, the first

Art Unit: 2171

fragment as invalid while the creating and copying operations are being performed [e.g., the marking processings of Fig. 14 and Fig. 23].

As to claim 53, except all the features cited in claim 52, Hasbun further discloses that the data object manager further to:

a) determine whether the instruction has been cancelled before the creating and copying operations are completed [e.g., the steps 1434-1450; col. 16, lines 23-49];

b) mark the first fragment as valid if instruction has been cancelled before the creating and copying operations are completed [e.g., 1460, Fig. 14; col. 16, lines 34-39];

c) delete the second fragment and the second table after marking the first fragment as valid [e.g., steps 2350-2390, Fig. 23 and associated text].

As to claim 54, except all the features cited in claim 51, Hasbun further discloses that the data object manager further deletes the first table when the creating and copying operations are completed [e.g., the step 2734, Fig. 27].

As to claim 55, except all the features cited in claim 51, Hasbun further discloses that the data object manager further marks, via the second table, the second fragment as a backup copy of the first segment while the creating and copying operations are being performed [e.g., the step 2820, Fig. 28].

As to claim 56, except all the features cited in claim 55, Hasbun further discloses that the data object manager further unmarks the second fragment as the backup copy of the first segment after the creating and copying operations are completed [e.g., the steps 2360-2364, Fig. 23].

As to claim 57, except all the features cited in claim 51, Hasbun further discloses that the copying of the first table comprises writing the handle into a replacement entry [e.g., Fig. 10 and associated text].

As to claim 58, except all the features cited in claim 57, Hasbun further discloses that writing the handle comprises marking a handle pointing to the first fragment as invalid and marking the handler pointing to the second fragment as valid [e.g., Fig. 11 and associated text].

As to claims 31-38 and 41-48, these claims recite the same subject matter in form of method and machine-readable medium product, therefore are rejected for the same reason.

Allowable Subject Matter

Claims 39-40, 49-50 and 59-60 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 31-60 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Spiegel et al. (U.S. Patent No. 6,711,675, 6,614,709, 6,571,326), these patents disclose the use of fresh memory to manipulate the boot flow of the blocked nonvolatile memory via a program control.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Y Chen whose telephone number is (703) 308-1155. The examiner can normally be reached on Monday - Friday from 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on (703) 308-1436. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2171

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan Y Chen
Examiner
Art Unit 2171

April 2, 2004



UYEN LE
PRIMARY EXAMINER